

Delhi High Court Stays Reassessment Order Against IBIBO Group

2022 LiveLaw (Del) 1078

IN THE HIGH COURT OF DELHI AT NEW DELHI
MANMOHAN; J., MANMEET PRITAM SINGH ARORA; J.

W.P.(C) 15051/2022 & CM APPLs. 46490-91/2022; 10.11.2022

IBIBO GROUP PRIVATE LIMITED versus DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 10(1), DELHI & ANR.

Petitioner through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Mr. Tarun Chanana & Ms. Ananya Kapoor, Advocates.

Respondents through: Mr. Sanjay Kumar, Senior Standing Counsel for Revenue.

ORDER

CM APPL. 46491/2022 (for exemption)

Exemption allowed, subject to all just exceptions.

Accordingly, this application is disposed of.

W.P.(C) 15051/2022 & CM APPL. 46490/2022 (for stay)

1. Present writ petition has been filed challenging the order passed under Section 148A(d) of the Income Tax Act, 1961, (the 'Act') and the notice issued under Section 148 of the Act both dated 29th June, 2022 for AY 201415.
2. Learned Counsel for the Petitioner states that there exists no information which suggests income chargeable to tax has escaped assessment in the hands of Petitioner. He states that the Petitioner has not claimed any deduction on account of alleged service tax collected from its customers in its Return of Income (ROI) for the subject year and therefore, Section 43B has no application. He submits that the liability to deposit service tax collected from customers with respect to hotel bookings is on hotels being the provider of service. He states that the Petitioner has always acted in the capacity of an online travel agent engaged in the business of facilitating the hotel rooms on behalf of the hotel.
3. Learned Counsel for the Petitioner states that the Respondent has made a statement in relation to the business model of the Petitioner stating that the Petitioner is engaged in the business of renting hotel rooms to final customers, which is incorrect and is contrary to the original assessment order.
4. Learned Counsel for the Petitioner emphasizes that the Petitioner's ROI has been subjected to detailed scrutiny during the course of assessment proceedings under Section 143(3) of the Act. He states that the business model of Petitioner Company had been duly examined by Respondent. He points out that there was a specific question on this issue raised by Respondent No. 1 during the course of original scrutiny assessment and thus reopening is based on change of opinion.
5. Issue notice. Mr. Sanjay Kumar, learned senior standing counsel for Revenue, accepts notice. He prays for and is permitted to file counter affidavit within four weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.
6. List on 18th May, 2023.
7. Though, the Assessing Officer is permitted to pass the reassessment order yet the same shall not be given effect to and shall be subject to further orders to be passed by this Court.